REMARKS

The Patent Office objected to the drawings under 37 C.F.R. § 1.83(a) as not showing the "mini-boot" of claim 3. Figure 3 of the application as filed illustrates the "mini-boot" (66) and thus the drawings are not objectionable. (See, Specification, ¶¶ 0021, 0041 – referencing mini-boot (66) in Figure 3).

The Patent Office rejected claims 1-16, 19-22, and 24 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,581,782 to Onufer (hereinafter "Onufer"). The Patent Office also rejected claims 14-20 and 23-30 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,676,182 to Healy (hereinafter "Healy").

Applicant has cancelled claims 1-13 without prejudice. Applicant has amended claim 14 to include the limitations of claims 24 and 25. Claim 14, as amended, is not anticipated by either Onufer or Healy, and thus the remaining pending, dependent claims, claims 15-23, 26-30, and 45-46 are allowable. Applicant has added new claims 45 and 46 as dependent claims off of claim 14, which are based on the limitations of original claims 6 and 7, and thus a new search is not required by addition on these new claims.

Claim 14, which is now of the same scope as original claim 25, requires that "a controller [be] adapted to control functions of the fuel dispenser including the vapor recovery system," and "a pressure sensor . . . associated with said vapor recovery system and reporting pressure readings to said controller."

The Patent Office did not use Onufer to reject claim 25, whose limitation now appears in claim 14 and all other pending claims; thus claim 25 and now amended claim 14 is not anticipated by or rejected in view of Onufer.

The Patent Office stated on page 5 of the Office Action mailed on July 23, 2004 that "a 'pressure sensor' and 'controller' are inherent to systems that compensate for vehicles having ORVR systems" as the basis for rejecting claims 24-25, whose limitations are now in claim 14 as amended. However, the Patent Office's argument of inherency is lacking. Under MPEP § 2112, in order for a claim limitation to be rejected under inherency, the Patent Office must provide a rationale or evidence tending to show inherency. The Patent Office must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent limitation is necessary from the teachings of the applied prior art. MPEP § 2112 (emphasis added).

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Healy's own teachings show that it is not necessary to provide a pressure sensor that reports pressure readings to a controller in order to operate and thus provide objective evidence that rebuts the finding of inherency by the Patent Office. Healy describes a vacuum relief valve (600) (illustrated in Figure 10) for regulating the negative pressure generated when the nozzle vaporguard (500) is sealed with the vehicle fill pipe when fueling an ORVR vehicle. At column 14, lines 31-33, Healy indicates that the vacuum relief valve (600) is installed in the outside wall of the nozzle body 12. The vacuum relief valve (600) does not communicate pressure readings and does not communicate pressure readings to a controller like that of claim 14.

Therefore, since Healy does not anticipate claim 14, and the limitations in claim 14 that are not disclosed in Healy are not inherent under the standards required to be shown by the Patent Office (MPEP § 2112), claim 14 is not anticipated by Healy, and thus claims 15-23, 26-30, and 45-46, which depend on claim 14, either directly or indirectly, are not anticipated by Healy as well. The present case is now in condition for allowance.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:

Steven N. Terranova
Registration No. 43,185
P.O. Box 1287
Cary, NC 27512
Telephone: (919) 654-4520

Date: September 8, 2004
Attorney Docket: 2400-781

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